

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

RICHARD G. TATUM, individually	)	
and on behalf of a class of all other	)	
persons similarly situated,	)	
	)	
Plaintiff,	)	1:02CV00373
	)	
v.	)	
	)	
R.J. REYNOLDS TOBACCO	)	
COMPANY, et al.	)	
	)	
Defendant.	)	

**ORDER**

On February 5, 2016, Defendants R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco Holdings, Inc., RJR Employee Benefits Committee, and RJR Pension Investment Committee (collectively "RJR") moved to reinstate the judgment this Court entered in their favor in Tatum v. R.J. Reynolds Tobacco Co., 926 F. Supp. 2d 648 (2013). (Doc. #483). RJR argues that in Amgen Inc. v. Harris, \_\_\_ S. Ct. \_\_\_, No. 15-278, 2016 WL 280886 (Jan. 25, 2016) (per curiam), "the Supreme Court held that the correct standard for causation for a breach of fiduciary duty under ERISA – the same claim alleged here – is whether a prudent fiduciary could have – as opposed to would have – made the same decision." (Doc. #484 at 2.) According to RJR, "[b]ecause the Supreme Court's subsequent decision in Amgen with respect to the standard of causation is contrary to the Fourth Circuit's decision in Tatum, this Court is not bound by Tatum and should reinstate the judgment." (Id. at 3.) Although the time for Tatum

to respond to RJR's motion has not yet passed and, therefore, the motion has not been submitted to this Court for a ruling, RJR's motion has been reviewed in light of the impending entry of this Court's Memorandum Opinion on remand. It is not necessary for the merits of RJR's argument to be reached, because, for the reasons stated in the Memorandum Opinion, it has been determined that RJR met the burden articulated by the Fourth Circuit in Tatum, a higher standard than the one that RJR argues Amgen requires. Therefore, RJR's Motion to Reinstate the Judgment (Doc. #483) is DENIED AS MOOT. All other pending motions (Docs. #463 and #480) are also DENIED AS MOOT.

This the 18<sup>th</sup> day of February, 2016.

/s/ N. Carlton Tilley, Jr.  
Senior United States District Judge